

In the Circuit Court of the State of Oregon

For the County of Multnomah

ISAIAH A. GONZALEZ,

Plaintiff,

v.

**GIBBS INTERNATIONAL, INC. dba GIBBS
TRUCK CENTERS, a Foreign Corporation;
and MAXON INDUSTRIES, INC. dba
MAXON LIFT CORP., a Foreign Corporation,**

Defendants.

Case No. 21CV45634

SUMMONS

**To: Maxon Industries, Inc. dba Maxon Lift Corp
R/A Christopher A. White
535 Anton Boulevard, Suite 1150
Costa Mesa, CA 92626**

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT:
READ THESE PAPERS CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

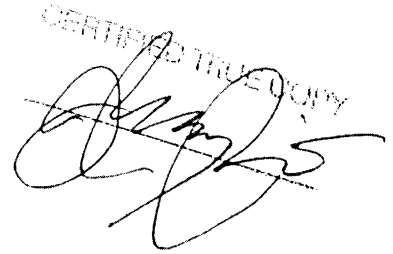
If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

SIGNATURE OF ATTORNEY

J. Randolph Pickett, OSB #721974
PICKETT DUMMIGAN MCCALL LLP
Centennial Block, Fourth Floor
210 S.W. Morrison Street
Portland, OR 97204
Telephone: (503) 226-3628

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual or other legal entity to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

ATTORNEY FOR PLAINTIFF

CERTIFIED TRUE COPY


IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ISAIAH A. GONZALEZ,

Plaintiff,

v.

GIBBS INTERNATIONAL, INC. dba GIBBS
TRUCK CENTERS, a Foreign Corporation;
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COMPLAINT

Personal Injury – Strict Products Liability –
Negligence

(Not Subject to Mandatory Arbitration)
(Demand for Jury Trial)

Filing fee based upon ORS 21.160(1)(d)
Amount in Controversy: \$14,086,625.91

Plaintiff alleges:

COUNT ONE
(Strict Products Liability)

**(Against Defendants Gibbs International, Inc. dba Gibbs Truck Centers,
and Maxon Industries, Inc. dba Maxon Lift Corp.)**

1.

At all material times herein:

- a) Defendant Gibbs International, Inc. dba Gibbs Truck Centers (“GIBBS”) was a duly organized Delaware corporation with a principal place of business located at 9855 Warren H. Abernathy Highway, in the city of Spartanburg, county of Spartanburg, state of South Carolina, authorized to do business and doing business at 2712 S. 4th Street in the city of Fresno, county of Fresno, state of California, as Gibbs Truck Centers, a full-service truck dealership and retail seller of new and used motor vehicles and attachments operated by a corporation that is a global leader in the pre-owned industrial equipment industry, an innovator in the decommissioning of industrial facilities, and a groundbreaker in the power industry, led by a diverse workforce composed of experience and young ambition, unconstrained by geography, conducting business on five continents and tailoring its products and services to fit the unique operational and management needs of its customers;

b) Defendant Gibbs carried on regular and sustained business activity within the county of Multnomah, state of Oregon, by selling and supplying products to customers located in Multnomah County;

c) Defendant Maxon Industries, Inc. dba Maxon Lift Corp. (“MAXON”) was a duly organized California corporation with a principal place of business located at 11921 Slauson Avenue, city of Santa Fe Springs, county of Los Angeles, state of California, authorized to do business and doing business in the state of California as a manufacturer and seller of truck lift gates, operating a family-owned business with an ongoing drive to innovate, create the best possible products for customer needs, and support them with a seamless network of industry professionals, so customers can keep delivery schedules, day in and day out;

d) Defendant Maxon carried on regular and sustained business activity within the county of Multnomah, state of Oregon, by selling and supplying products to customers located in Multnomah County;

e) Plaintiff Isiah A. Gonzalez, a resident of the city of Portland, county of Multnomah, state of Oregon, was acting in the course and scope of his employment with PDX Movers, LLC (“PDX MOVERS”), a duly organized Oregon Limited Liability Company with a principal place of business in the city of Tualatin, county of Washington, state of Oregon.

2.

At all material times herein, defendants Gibbs and Maxon acted by and through their authorized employees and agents, acting in the course and scope of their employment or agency relationships.

3.

At all material times herein, PDX Movers owned and utilized for its moving business a 2018 Hino Model Number 258 diesel truck, VIN 5PVNJ8JV6J4S68914 (the “MOVING TRUCK”). PDX Movers purchased the Hino truck as a chassis and delivered it to defendant Gibbs. On or about April 19, 2018, defendant Gibbs sold to PDX Movers a 2014 Marathon Industries, Inc. Model Number FRP Van Body (the “VAN BODY”) and installed the Van Body on the Hino truck.

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1 4.

2 The Van Body sold and installed on the Hino truck by defendant Gibbs was outfitted with
3 a Maxon Tuk-A-Way Lift Gate Series Model Number GPTLR, serial number 0713256204 (the
4 “LIFT GATE”). The hydraulically-powered Lift Gate enables freight to be lifted to or from the
5 ground to the tailgate of the truck.

6 5.

7 On or about November 29, 2019, Mr. Gonzalez, while working in the course and scope of
8 his employment for PDX Movers, was on a crew engaged in moving furniture and other personal
9 belongings of a customer from one location to another. The crew loaded the Moving Truck with
10 the customer’s belongings and drove to another location at 10238 S.E. Bristol Court, in the city of
11 Happy Valley, county of Clackamas, state of Oregon, to unload. Mr. Gonzalez engaged the control
12 switch to lower the platform of the Lift Gate. Once the platform was down, he took his hand off
13 the control switch and reached over to unfold the platform. Without warning, and before putting
14 his hand on the unfolded platform, the platform jerked up and crushed his left hand between the
15 unfolded platform and the underside of the bed of the moving truck. Mr. Gonzalez was able to
16 lower the unfolded platform enough with his right hand to remove his left hand.

17 6.

18 David Valencia, one of the co-owners of PDX Movers, later informed Mr. Gonzalez that
19 the reason the Lift Gate platform malfunctioned and crushed his hand was a “bad solenoid.”

20 7.

21 The Lift Gate was designed, manufactured, distributed, sold, serviced, inspected and/or
22 tested by defendants Gibbs and Maxon, and each of them. Defendants Gibbs and Maxon, and each
23 of them, knew the Lift Gate would be used by ultimate purchasers without substantial change in
24 its condition from the time of the manufacture and initial sale, and the Lift Gate was, in fact, in
25 substantially the same condition at the time of its use on the date of this incident and was being
26 used in a reasonable and foreseeable manner.

8.

Defendants Gibbs and Maxon, and each of them, are strictly liable for designing, manufacturing, distributing, selling, servicing, inspecting and/or testing the Lift Gate in an unreasonably dangerous and defective condition for the use intended, in one or more of the following particulars:

- a) The Lift Gate was defective and unreasonably dangerous because it was dangerous to an extent beyond that which would be expected by the ordinary consumer who purchases the product with the ordinary knowledge common to the community as to its characteristics;
- b) The Lift Gate was defective and unreasonably dangerous because the platform on the Lift Gate had an unreasonable propensity to move without warning upon the failure of a component part, *e.g.*, a solenoid;
- c) The Lift Gate was defective and unreasonably dangerous because it failed to warn users that it had a propensity to move without warning upon the failure of a component part, *e.g.*, a solenoid, at a time when defendants, and each of them, knew, or, in the exercise of reasonable care, should have known, of this reasonably foreseeable and unreasonably dangerous defect;
- d) The Lift Gate was defective and unreasonably dangerous because it failed to operate as marketed and advertised, and failed to alert users to the hazardous conditions described herein;
- e) The Lift Gate was defective and unreasonably dangerous because it was improperly designed as it failed to provide protection to a user of the Lift Gate if the platform unexpectedly moved;
- f) The Lift Gate was defective and unreasonably dangerous because it lacked mechanisms or devices to adequately monitor component parts so as to lock the platform in position in the event of the failure of a component part;
- g) The Lift Gate was defective and unreasonably dangerous because it lacked warnings or instructions, including warning stickers, placards, and/or proper documentation, to alert users of the dangerous characteristics of the Lift Gate including, but not limited to, the unexpected movement of the platform, at a time when defendants, and each of them, knew, or, in the exercise of reasonable care, should have known, of this reasonably foreseeable and unreasonably dangerous defect;
- h) The Lift Gate was defective and unreasonably dangerous because it lacked a fail-safe system that would stop operation of the Lift Gate if there were an electrical or any other type of failure;

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- 1 i) The Lift Gate was defective and unreasonably dangerous because the design
2 failed to minimize, guard, and/or eliminate pinch or crush points.

3 9.

4 The fault and/or negligence of defendants, and each of them, as set forth herein, was a
5 substantial factor in causing, contributing to, enhancing, and/or aggravating the following injuries
6 to Mr. Gonzalez some or all of which are permanent:

- 7 a) Left hand mutilating/crush injury;
8 b) Open wound, left hand;
9 c) Transverse fracture of the proximal metaphysis of the proximal phalanx of the
10 index finger;
11 d) Comminuted fracture with a transverse component proximal metaphysis of
12 the proximal phalanx of the long finger;
13 e) Transverse fracture through the proximal metaphysis of the proximal phalanx
14 of the ring finger with one-half (1/2) bone diameter radial displacement distal
fracture;
15 f) Transverse fracture of mid diaphysis of the proximal phalanx of the small
16 finger;
17 g) Fracture of left wrist;
18 h) Mangled left upper extremity;
19 i) Left hand contracture;
20 j) Laceration across the volar palm along the metacarpal heads with exposed
21 tendon, vessels, muscles, and subcutaneous tissue;
22 k) Bleeding from incision cites following May 13, 2020, surgery;
23 l) Edema in left distal forearm.

24 Plaintiff reserves the right to amend this complaint to more completely allege at time of trial or before
25 the nature and extent of the injuries he suffered.

26 ///

10.

As a result of the foregoing injuries, plaintiff underwent the following surgical procedures:

- a) Left hand disarticulation/amputation;
- b) Radial styloidectomy;
- a) Irrigation and debridement of left hand traumatic crush laceration;
- b) Open reduction and pinning of left index, long, ring, and small fingers;
- c) Left index finger flexor tenolysis;
- d) Left long finger flexor tenolysis;
- e) Left long finger second annular pulley (A2) reconstruction using ring flexor digitorum superficialis (FDS) tendon graft;
- f) Left ring finger flexor tenolysis;
- g) Left ring finger A2 pulley reconstruction using ring palmaris tendon graft;
- h) Left ring finger placement of size 4 Hunter rod;
- i) Left small finger flexor tenolysis;
- j) Left small finger A2 pulley reconstruction using ring palmaris tendon graft;
- k) Left small finger placement of size 3 Hunter rod;
- l) Nerve block.

11.

As a result of the foregoing injuries, plaintiff suffered permanent injury and loss of enjoyment of life and will continue to suffer from pain and loss of enjoyment of life in the future, all to his noneconomic damage in an amount to be determined by the jury to fully and fairly compensate plaintiff for his damages in accordance with Oregon law, but in an amount not to exceed the sum of \$12,500,000.00.

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1 12.

2 As a result of the foregoing injuries, plaintiff incurred reasonable and necessary medical,
3 hospital, doctor, prosthetic, therapy, nursing, and rehabilitation expenses to date in the sum of
4 \$286,625.61. Plaintiff will incur reasonable and necessary medical, hospital, doctor, prosthetic,
5 therapy, nursing, and vocational rehabilitation expenses in the future, the present value of which
6 is in the approximate sum of \$750,000.00.

7 13.

8 Plaintiff lost wages to date in the approximate sum of \$50,000.00 and will incur loss of
9 wages and/or loss of earning capacity in the future, the present value of which is the approximate
10 sum of \$500,000.00, all to his total economic damage in the approximate sum of \$1,586,625.91.

11 14.

12 Plaintiff is entitled to interest at nine percent (9%) per annum for his economically
13 verifiable losses from the date of loss to the date of judgment.

14 15.

15 Plaintiff reserves the right to amend this complaint at the time of trial to more completely
16 allege his economic losses and/or to conform to proof offered at trial.

17 16.

18 Plaintiff hereby demands a jury trial.

19 **COUNT TWO**
20 **(Negligence)**
21 **(Against Defendants Gibbs International, Inc. dba Gibbs Truck Centers,**
22 **and Maxon Industries, Inc. dba Maxon Lift Corp.)**

22 17.

23 Plaintiff realleges and incorporates herein ¶¶1 through 16.

24 18.

25 Defendants Gibbs and Maxon, and each of them, are negligent in one or more of the ways
26 alleged in ¶8 of Count One.

19.

Plaintiff Isaiah A. Gonzalez suffered injuries, underwent surgeries, and is entitled to compensatory damages on Count Two as set forth in ¶¶9 through 14 of Count One.

WHEREFORE plaintiff prays for judgment against defendants, and each of them, in the sum of \$14,086,625.91, together with prejudgment interest on the economically verifiable losses of plaintiff at the rate of nine percent (9%) per annum, from the date of loss to the entry of judgment herein, for his costs and disbursements incurred herein, and such other relief as the court deems just and equitable.

DATED this 24th day of November, 2021.

s/ J. Randolph Pickett

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